

[ORIGINAL CIVIL JURISDICTION]

MURISON, C.J. April 4, 1933.

CHEW JOO CHIAT DECEASED

LIM BOON POK

vs.

EUGENE ERNEST COLMAN OFFICIAL
ASSIGNEE OF THE STRAITS SETTLEMENTS.

[SINGAPORE SUIT No. 1370 of 1931]

Civil Procedure Code, S. 860—Administrator's commission.

The considerations by which the Court will be guided in estimating the amount, if any, to be allowed to an executor or administrator under S. 860 of the Civil Procedure Code discussed.

In the goods of *Syed Ahmad Al Mutahar*, 15 S.S.L.R. 236 doubted.

Summons in Chambers.

By an Order of Court in this suit dated the 13th day of February, 1933, it was ordered (*inter alia*) that the defendant as administrator of the abovenamed deceased should be at liberty to retain out of monies in hand forming part of the estate such sum, if any, as might be fixed by the Court for his administrator's commission and that the Registrar should make a report to the Judge on the work done by the administrator to enable the Judge to fix such commission.

The Registrar made his report by which it appeared that the estate had sustained a substantial loss owing to the failure of the administrator to sell although an order had been made that all immoveable property be sold out of Court by public auction or private treaty and by which it also appeared that a substantial amount of work had been done by the administrator, the Official Assignee, but that a greater part of this work had been done in office hours.

The administrator then applied by Summons to have his commission fixed.

In the course of argument it appeared that the infant beneficiaries of the estate were being indemnified against any loss on any claim for breach of trust by the Administrator in not selling in accordance with the Order of Court dated 1st June, 1928, and the Chief Justice therefore ignored that aspect of the case.

Haydon for the defendant asked for the sum of \$7,500 as administrator's remuneration, i.e., 11¼% of the Capital Account.

Koek for Victoria Lim, Chew Quee Neo and Lee Tian Seck (parties served). Only a nominal sum should be paid. Commission is a reward of success (*In the goods of Syed Ahmad bin Hassan Al Mutahar deceased*, 15 S.S.L.R. 236). The Administration of this estate has not been successful. The Order of Court of 1st June, 1928,

has been disregarded and the estate is undistributed after 5½ years. \$1,500 is ample remuneration.

Ismail for Chew Cheng Liam (party served).

Storr for the Plaintiff.

MURISON, C.J.—In all the circumstances of this case I allow \$1,500. I would like to say that I doubt if the principle stated by Barrett-Lennard J. at p. 238 of 15 S.S.L.R. *In re Syed Ahmad deceased*, namely "reward(s) are the portion of the successful" however true it may be in other things is not the true test for the calculation of what remuneration an executor or administrator is going to get. The true test in my opinion is whether he has done his duty according to law.

Order accordingly.

Solicitors for the Plaintiff—*Drew & Napier*.

Solicitors for the Defendant—*Donaldson & Burkinshaw*.

Solicitors for Victoria Lim, Chew Quee Neo, Lee Tian Seck—*Chan & Eber*.

Solicitors for Chew Cheng Liam—*Wee Swee Teow & Co*.

[ORIGINAL CIVIL JURISDICTION]

[APPELLATE CIVIL JURISDICTION]

WHITLEY, J. April 28, 1933.

HUGGARD, C.J., TERRELL and MILLS, JJ.

June 22, 1933.

KING LEE TEE, AN INFANT BY KING KHO
CHUAN, HIS NEXT FRIEND

vs.

NORWICH UNION FIRE INSURANCE
SOCIETY, LIMITED.

[SINGAPORE CIVIL SUIT No. 1024/32]

[SINGAPORE CIVIL APPEAL No. 6/1933]

Motor Car Insurance—Third Party risks—Injury by accident to Infant—Transfer of rights of insured to Third Party—Third Parties (Rights against Insurers) Act 1930—Settlement of claim by Insured with Third Party and with insurer—Bankruptcy of Insured after settlement.

The Infant Plaintiff suffered injuries through being knocked down by a motor car which was insured with Defendants against Third Party risks. A person purporting to be the guardian of the Plaintiff attended at the office of the Defendant Company with the Insured (the owner of the car) and received \$100 in settlement of any claim by the Plaintiff. The Insured also signed a receipt in favour of the Insurers in full discharge and